

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

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| IN RE: EFFICIENT USE OF TELEPHONE NUMBERING RESOURCES | DOCKET NO. RMU-02-9 |
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ORDER ADOPTING RULE

(Issued May 9, 2003)

Pursuant to the authority of Iowa Code §§ 17A.4 and 476.2 and 47 U.S.C. § 251(e), the Utilities Board adopts the rule attached hereto and incorporated by reference. This rule adds a new section to 199 IAC 22 to provide guidelines for communications service providers in Iowa who wish to apply for additional central office codes.

IT IS THEREFORE ORDERED:

1. A rule making proceeding, identified as Docket No. RMU-02-9, is adopted.

2. The Executive Secretary is directed to submit for publication in the Administrative Bulletin a notice in the form attached to and incorporated by reference in this order.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 9th day of May, 2003.

UTILITIES DIVISION [199]

Adopted and Filed

Pursuant to Iowa Code sections 17A.4 and 476.2 and 47 U.S.C. § 251(e), the Utilities Board (Board) gives notice that on May 9, 2003, the Board issued an order in Docket No. RMU-02-9, In re: Efficient Use of Telephone Numbering Resources, "Order Adopting Rule." The Board adopted new rule 199 IAC 22.24, containing the requirements for communications service providers in Iowa who wish to apply for additional central office codes with the North American Numbering Plan Administrator (NANPA). This rule is intended to implement a process for communications service providers to submit applications for new or additional prefixes or thousand blocks to the Board as well as to the NANPA.

Notice of Intended Action for the proposed rule was published in the IAB Vol. XXV, No. 10 (11/13/02) p. 766, as ARC 2105B. Written comments were filed on or before December 3, 2002. There was not a request made for an oral comment hearing on the proposed rule.

Written comments were filed by the Consumer Advocate Division of the Department of Justice (Consumer Advocate) and AT&T Communications of the Midwest, Inc., and AT&T Local Services on behalf of TCG Omaha (AT&T). Consumer Advocate's comments supported the proposed rule. AT&T did not support the proposed rule in its current form and suggested potential revisions to the rule as described below.

AT&T alleged that in its current form, the proposed rule exceeds the Board's authority under the rules of the Federal Communications Commission (FCC). Specifically, AT&T asserts that by requiring communications service providers to submit a copy of their NANPA application to the Board two days prior to the date the application is filed with the NANPA, the Board is adding an additional layer of review to the application process, which is not compliant with the FCC. AT&T also asserts that the proposed rule as written will have a minimal impact on number conservation.

AT&T suggests that the rule be amended to provide that the application be submitted to the Board at the same time it is filed with the NANPA to remain in accordance with FCC rules. In addition, AT&T suggests that the rule should also be amended to provide that all data contained in the applications be treated as confidential by the Board. The Board has considered AT&T's suggestions and will revise the adopted rule to address some of AT&T's concerns.

Under the existing North American Numbering Plan, telephone numbers in Iowa are assigned by central office code, or prefix. In a standard seven-digit local telephone number, the prefix is the first three digits, sometimes referred to as the NXX. Each prefix, or NXX, represents 10,000 potential telephone numbers. Because certain prefixes are unavailable for use as local exchange telephone numbers (such as prefixes starting with a 0 or 1 or special prefixes like 800 or 911), there are only about 750 to 760 prefixes available in any particular area code. Similarly, in area codes participating in thousand block number pooling, the Pooling Administrator (PA) assigns numbering resources in 1,000

blocks rather than a full NXX code. Those carriers that do not receive numbering resources in 1,000 blocks will receive numbering resources in full 10,000 blocks.

Area code exhaust occurs when all of the available prefixes are assigned. Before this occurs, the Board must initiate area code relief proceedings to provide additional available prefixes. These relief proceedings are expensive and disruptive processes that should be avoided if possible.

Pursuant to current requirements by the Federal Communications Commission (FCC), communications service providers apply to the NANPA for new or “growth” prefixes. Currently, prefixes are assigned by NANPA at a national rate of approximately 40,000 prefixes per year. Under existing guidelines, NANPA must approve or reject each application within ten days of the date on which the application is filed.

The FCC has urged state commissions to work cooperatively with the NANPA to help ensure that numbering resources are not prematurely assigned. FCC 00-104, ¶ 75, “Report and Order and Further Notice of Proposed Rule Making,” adopted March 17, 2000. To that end, the FCC recommends that state commissions should be notified when a carrier requests numbering resources, and the state commissions then advise the NANPA if the carrier has not been certified or if there are other issues. FCC 00-104, ¶ 94.

The Board’s intent in proposing this rule is to avoid situations where prefixes are assigned to communications service providers in Iowa on the basis of invalid applications. Such an occurrence means that valuable prefixes are wasted on noncompliant services and the projected date of area code exhaustion is

accelerated. Therefore, it is in the public interest for each application to be reviewed for compliance with all Iowa requirements in conjunction with the NANPA requirements before it is granted.

In order to effectively fulfill its cooperative role, the Board must receive a copy of each application for a new or additional prefix prior to the time that the application is filed with NANPA (or the PA, for pooling situations). The Board issued an order on July 24, 2002, in Docket No. NOI-00-3, which established the procedures that communications service providers are to follow when submitting copies of their applications to the Board. The order required carriers to send an executed application to the Board by facsimile transfer or electronic mail two days prior to submission to NANPA.

While the FCC has stated concerns about state commissions potentially delaying the processing of these applications, the FCC has not indicated that the information contained in an application should not be submitted to state commissions prior to the filing of a formal application. The Board has considered AT&T's concern that the Board's rule serves as a pre-application filter through which carrier number acquisitions must pass. The rule, however, is not a pre-application filter process. Rather, it is the Board's implementation of the FCC's request that the Board act in cooperation with the NANPA to see that these applications are processed correctly. The Board needs this brief additional time to review the application and determine whether the communications carrier submitting the application is in compliance with Iowa law. Therefore, the adopted rule will require communications service providers to submit the information that

will be the subject of an executed application to the NANPA or the PA for numbering resources to the Board at least two days prior to the date on which the executed application is to be received by the NANPA or the PA.

The Board has also considered AT&T's concern regarding the potential complication that this rule may add to the application process. To address this concern, the Board will modify the adopted rule to allow submission of draft applications from communications service providers, as well as executed applications, at least two days prior to the date on which an executed application is to be received by the NANPA or the PA. However, a draft application must contain the identical information that is to be submitted to the NANPA in the executed application; if the information in the executed application is substantially revised, the process must start again.

The Board has also considered AT&T's suggestion regarding the confidential treatment of the information contained in these applications. AT&T points out that the FCC has stated that this information should be treated confidentially. To date, the Board has relied upon its regular rules regarding application for confidential treatment when processing this information. See 199 IAC 1.9. However, this has proven to be cumbersome and inefficient, as this information often needs to be confidential for only a limited time period. In order to address AT&T's concerns and to minimize potential complications to the process, the Board has revised the adopted rule and will automatically hold the information contained in the applications or draft applications for numbering resources confidential for a period of 90 days or until the new codes are entered into the

local exchange routing guide (LERG). Once the codes are entered into the LERG, they become publicly available, thereby eliminating the need for continued confidential treatment of the application. The proposed rule has been amended to adopt this change.

The Board considered including a waiver provision in this rule, but has chosen to rely on the regular waiver rule provisions of 199 IAC 1.3.

This rule is intended to implement Iowa Code sections 17A.4 and 476.2 and 47 U.S.C. § 251(e).

This rule will become effective July 2, 2003.

The following **new** rule is adopted.

199—22.24(476) Applications for Numbering Resources ~~Central Office~~ Codes.

22.24(1) *Application to be filed with the board.* Any communications service provider, including but not limited to local exchange carriers, wireless service providers, and paging companies, applying for numbering resources ~~new or additional central office codes~~ with the North American Numbering Plan Administrator (NANPA) or the Number Pooling Administrator (PA) shall send ~~an~~ a draft or executed application to the board by facsimile transfer or electronic mail at least two days prior to the date on which the original application is to be received by the NANPA or PA. A draft application shall contain substantially the same information that is to be contained in an executed application. The applications may be faxed to (515) 281-5329 or electronically mailed to

iubrecordscenter@iub.state.ia.us. Electronic submissions shall include “NANPA Application” or “PA Application” in the subject line.

22.24(2) *Confidential Treatment*. The information contained in the draft applications or executed applications for numbering resources shall be held as confidential for a period of 90 days or until the new codes are entered into the local exchange routing guide (LERG), whichever is later. ~~If a communications service provider intends to request that the board treat any or all of the information contained in its application to NANPA as confidential, three copies of the application shall be filed with the board in compliance with the procedures of 199 IAC 1.9(22) at least two days prior to the date on which the original application is received by NANPA. Copies may be addressed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.~~

22.24(3) *Content*. Each application filed with the board under this rule shall include a reference to this rule and sufficient information to identify the service provider and a contact person.

May 9, 2003

/s/ Diane Munns
Diane Munns
Chairman